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FILED

March 13, 2007

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

By: David M. Puteska
Deputy Attorney General
(973) 648-2478

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

PHILLIP MACH, M.D.
License No. MA05188800

TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened before the New Jersey State Board of Medical Examiners (the "Board") upon receipt of information that suggested that Respondent Phillip Mach, M.D. was engaged in criminal activity that may have violated Board rules or regulations.

Pursuant to a plea agreement entered into with the United States Attorney's Office for the Districts of Minnesota and New Jersey, a copy of which is attached hereto as Exhibit A and incorporated by reference (hereinafter the "September 15 Plea Agreement"), on September 15, 2006, Respondent pled guilty to the following federal charges: 1. Conspiracy to distribute and dispense controlled substances in violation of 21 U.S.C. 841(a)(1), 841(b)(1)(D) and 21 C.F.R. §1306.04; 2. Unlawful distribution and dispensing of controlled substances in violation of 21 U.S.C. 841(a)(1),

CERTIFIED TRUE COPY

841(b)(1)(D), 18 U.S.C. 21 and 21 C.F.R. §1306.04; and 3. Conspiracy to distribute and dispense controlled substances in violation of 21 U.S.C. 846.

The charges stem from Respondent's involvement in an Internet scheme in which Respondent was the sole physician who issued sham prescriptions for multiple Internet pharmacies from at least January 2003 to May 2005. Pursuant to the September 15 Plea Agreement, Respondent acknowledged receipt of at least \$200,000 from the illegal issuance of prescriptions.¹

Section 9 of the September 15 Plea Agreement, as amended by the court during the guilty plea colloquy, requires Respondent to return his Drug Enforcement Agency ("DEA") Controlled Dangerous Substance ("CDS") registration, New Jersey Medical License and current biennial registration and to cease and desist from prescribing and dispensing any medications, including CDS, until further order of the Board..

Respondent now seeks to voluntarily surrender his license with such surrender to be deemed a revocation. The Board finding the within disposition to be adequately protective of the public health, safety and welfare,

IT IS on this 9th day of march, 2007

ORDERED as follows:

1. Respondent, Phillip Mach, M.D., is hereby granted leave to voluntarily surrender his license to practice medicine and surgery in the State of New Jersey. Said surrender shall be deemed a revocation by the Board;

¹The September 15 Plea Agreement also requires Dr. Mach to cooperate fully with the United States Attorney's Office and to forfeit all proceeds from his illegal conduct in an amount at least equal to \$200,000.

2. Respondent shall return his original New Jersey CDS registration, his original New Jersey license and current biennial registration to the New Jersey State Board of Medical Examiners;
3. Respondent shall cease and desist from prescribing or dispensing any medications, including Controlled Dangerous Substances, to any individual, including himself, his family members or his patients and immediately advise the New Jersey Office of Drug Control and the Drug Enforcement Agency of this Order; and
4. Respondent shall comply with the directives attached hereto as Exhibit B which are incorporated herein by reference.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

By: Sindy Paul, MD
Sindy Paul, M.D., President

I have read and understood
the within Order and agree
to be bound by its contents.

Phillip Mach
Phillip Mach, M.D.

Dated: 2/24/07

Consented to as to form and
entry.

Kern, Augustine, Conroy & Schoppmann, P.C.
Attorneys for Phillip Mach, M.D.

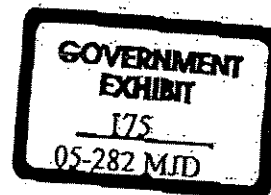
Robert J. Conroy
Robert J. Conroy, Esq.

Dated: 3/2/07

Bruce G. Cassidy & Associates, P.A.
Attorneys for Phillip Mach, M.D.

Bruce G. Cassidy
Bruce G. Cassidy, Esq.

EXHIBIT A



UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 05-282(2) (MJD/JJG)
Criminal No. 06-302 (MJD)

UNITED STATES OF AMERICA,

Plaintiff,

v.

PHILIP MACH,

Defendant.

FILED UNDER SEAL
PLEA AGREEMENT AND
SENTENCING STIPULATIONS

The parties to this case hereby agree to its resolution on the following terms and conditions. The United States is represented by its attorneys, Rachel K. Paulose, United States Attorney for the District of Minnesota, and Assistant United States Attorneys, Nicole A. Engisch and Elizabeth C. Peterson, as well as by Christopher J. Christie, United States Attorney for the District of New Jersey, and Assistant United States Attorney Eric H. Jaso. The defendant, Philip Mach, is represented by Bruce G. Cassidy, Esq.

FACTUAL BASIS

1. The United States and the defendant agree to the following factual basis:

a. Beginning in or about July 2004, and continuing until in or about May 2005, in the States and Districts of Minnesota and New Jersey and elsewhere, the defendant, through various entities and web site addresses, including Online Payment Solutions, Inc., xpress-rx.com, supremeproductsltd.com, rxorderfill.com, and Xpress Pharmacy Direct (hereinafter, "Xpress

SEP 15 2006

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Pharmacy Direct"), knowingly and intentionally conspired with others to dispense and distribute, and to cause to be dispensed and distributed, prescription drugs that are controlled substances, other than for a legitimate medical purpose and not in the usual course of professional practice.

b. From in or about July 2004 through in or about May 2005, defendant's only active license to practice medicine was issued by the State of New Jersey. Defendant was the sole physician who issued purported prescriptions for Xpress Pharmacy Direct customers located throughout the United States. Defendant agrees and acknowledges that every prescription he issued for Xpress Pharmacy Direct's customers was issued other than for a legitimate medical purpose, that none was issued in the usual course of professional practice, and that the purported prescriptions were in fact sham prescriptions.

c. Defendant agrees that, among other things, on or about March 31, 2005, he aided and abetted others, in the States and Districts of Minnesota and New Jersey and elsewhere, to knowingly and intentionally distribute and dispense, and cause to be distributed and dispensed, 90 hydrocodone tablets, Schedule III controlled substances, to "Gregory Wall," an undercover agent posing as a customer, in Downers Grove, Illinois, for other than a legitimate medical purpose and not in the usual course of professional practice.

d. The parties agree that the defendant shall be responsible, as relevant conduct or otherwise, for the total quantity and/or total dollar loss amount attributable to all prescriptions issued by him in connection with Xpress Pharmacy Direct as well as all other online pharmacies in which he was involved throughout the country and the world.

e. Further, defendant agrees that beginning in or about January 2003, and continuing until in or about June 2003, in the States and Districts of Minnesota and New Jersey and elsewhere, the defendant, through various entities and web site addresses, including PromptCare and www.tropicsrx.com, knowingly and intentionally conspired with others to dispense and distribute, and to cause to be dispensed and distributed, prescription drugs that are controlled substances, other than for a legitimate medical purpose and not in the usual course of professional practice.

f. Further, defendant agrees that beginning in or about October 2004, and continuing until in or about May 2005, in the States and Districts of Minnesota and New Jersey and elsewhere, the defendant, through various entities and web site addresses, including www.integrarx.com and www.rxmed247.com, knowingly and intentionally conspired with others to dispense and distribute, and to cause to be dispensed and distributed, prescription drugs that are controlled substances, other than for a legitimate medical purpose and not in the usual course of professional practice.

g. Defendant received in gross revenue from issuing sham prescriptions for Xpress Pharmacy Direct approximately \$55,000 in 2004 and approximately \$35,000 in 2005, for a total of \$91,000. Defendant received another approximately \$109,000 from his work issuing sham prescriptions for other online pharmacies, including PromptCare, www.integrarx.com and www.rxmed247.com, during the time frame of approximately 2003 through May 2005. Defendant agrees that the total amount of proceeds that defendant obtained from issuing sham prescriptions for online pharmacies was at least \$200,000.

PLEA AGREEMENT

2. Guilty Plea. The defendant will enter a plea of guilty to Count 1 of the Second Superseding Indictment, which charges him with one count of conspiracy to distribute and dispense controlled substances, in violation of Title 21, United States Code, Section 846, a conspiracy to violate Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 21, Code of Federal Regulations, Section 1306.04. The defendant will also enter a plea of guilty to Count 8 of the Second Superseding Indictment, which charges him with unlawful distribution and dispensing of controlled substances in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D); Title 18, United States Code, Section 2; and Title 21, Code of Federal Regulations, Section 1306.04. In

In addition, the defendant will plead guilty to a single count Information to be filed in the District of New Jersey and transferred to the District of Minnesota, charging him with conspiracy to distribute and dispense controlled substances in violation of Title 21, United States Code, Section 846. With respect to the charge to be filed in the District of New Jersey, the defendant agrees to waive his right to Indictment by a grand jury, to consent to the filing of a criminal Information, and to consent to the transfer of the case to District of Minnesota pursuant to Fed. R. Crim. P. 20. The defendant further agrees to execute a written waiver of his right to be indicted by a grand jury on this charge.

3. Agreement Not to Prosecute. In exchange for the defendant's plea to the above-referenced charges, including the charges to be filed in the District of New Jersey, and the defendant's agreement to cooperate fully in the investigation and prosecution of other persons, including providing truthful testimony at any trial or proceeding, the United States agrees that it will move for dismissal of all remaining counts of the Second Superseding Indictment filed against the defendant in Criminal No. 05-282(2) (MJD/JJG), at the time of the defendant's sentencing. The United States further agrees that it will not prosecute or otherwise seek any other criminal charges against the defendant for any offense or conduct relating to Xpress Pharmacy Direct and/or

the prescribing of drugs through xpress-rx.com, supremeproductsltd.com, and/or the sale of prescription drugs through other online pharmacies, the facts of which are known to Special Agent Kenneth Kulick, U.S. Food and Drug Administration, Office of Criminal Investigations, as of the date of this plea agreement. The United States further agrees that it will not prosecute or otherwise seek any other criminal charges against the defendant for any offense or conduct relating to PromptCare and/or the prescribing of drugs through tropicsrx.com and/or other online pharmacies, the facts of which are known as of the date of this plea agreement to Special Agent Anthony Rego, U.S. Drug Enforcement Administration. The United States further agrees that it will not prosecute or otherwise seek any other criminal charges against the defendant for any offense or conduct relating to Cardio Vision LLC, Nu-Tek, and/or the defendant's prescribing durable medical equipment and/or laboratory testing provided by those entities, the facts of which are known as of the date of this plea agreement to Special Agent Colleen Dugan, U.S. Department of Health and Human Services, Office of Inspector General. This Agreement does not preclude the United States from prosecuting defendant for any criminal offense found in Title 26, United States Code. This Agreement is only binding on the U.S. Attorney's Office for the District of New Jersey and the U.S. Attorney's Office for the

District of Minnesota. This Agreement does not bind any other federal or state agency.

4. Maximum Potential Penalties. The defendant understands that the Court will have the authority to impose the maximum potential statutory penalties for any offense to which the defendant pleads guilty.

The defendant understands that the maximum potential statutory penalties for Count 1 of the Second Superseding Indictment are as follows:

- A. a term of imprisonment of up to 5 years;
- B. a supervised release term of up to 3 years;
- C. a criminal fine of up to \$250,000;
- D. a mandatory special assessment of \$100; and
- E. assessment of the costs of imprisonment and supervision.

The defendant understands that the maximum potential statutory penalties for the single count of the Information to be filed in the District of New Jersey are as follows:

- A. a term of imprisonment of up to 5 years;
- B. a supervised release term of up to 3 years;
- C. a criminal fine of up to \$250,000;
- D. a mandatory special assessment of \$100; and
- E. assessment of the costs of imprisonment and

supervision.

The defendant understands that the maximum potential statutory penalties for Count 8 of the Second Superseding Indictment are as follows:

- A. a term of imprisonment of up to 5 years;
- B. a supervised release term of up to 3 years;
- C. a criminal fine of up to \$250,000;
- D. a mandatory special assessment of \$100; and
- E. assessment of the costs of imprisonment and supervision.

5. Revocation of Supervised Release. The defendant understands that, if he were to violate any condition of supervised release, he could be sentenced to an additional term of imprisonment up to the statutory maximums set forth in 18 U.S.C. § 3583.

6. Mandatory Special Assessment. The defendant will pay the mandatory special assessment fee of \$300 at or before the time of sentencing.

SENTENCING STIPULATIONS

7. The defendant agrees to be sentenced in accordance with the Federal Sentencing Act, 18 U.S.C. 3551, et seq., with reference to the applicable U.S. Sentencing Guidelines ("U.S.S.G."). The parties agree that the following stipulations regarding the

guidelines are binding upon them, and neither party will advocate for any other sentencing position. The parties understand, however, that the stipulations contained herein are not binding upon the Court and that the application of the guidelines is a matter that falls solely within the Court's discretion. If the Court determines that the applicable guideline calculations, the defendant's criminal history category, or any of the other sentencing factors are different from those stated herein, the parties will not be entitled to withdraw from the plea agreement, the defendant will not be entitled to withdraw his guilty plea, and the defendant will be sentenced pursuant to the Court's determinations.

A. Guidelines Manual. The parties agree that the applicable Guidelines Manual is the manual that incorporated guideline amendments effective November 1, 2004.

B. Grouping and Applicable Guideline Section. The parties agree that, pursuant to U.S.S.G. §3D1.2 of the sentencing guidelines, Counts 1 and 8 of the Second Superseding Indictment and the single count of the Information to be filed in the District of New Jersey should be grouped together into a single group.

C. Base Offense Level. Pursuant to U.S.S.G. §2D1.1(a)(3), the base offense level is 22. This is calculated by adding up (1) 20 levels pursuant to U.S.S.G. §2D1.1(a)(3) (incorporating the Drug Quantity Table for 40,000 or more units of

Schedule III 'substances); and (2) 2 levels pursuant to U.S.S.G. §2D1.1(b) (5) for distributing a controlled substance through mass-marketing by means of an interactive computer service.

D. Use of Special Skill. Pursuant to U.S.S.G. §3B1.3, 2 levels are added because the defendant, a physician, used a special skill in a manner that significantly facilitated the commission or concealment of the offense. The offense level is increased to 24.

E. Safety Valve. The parties agree that if the defendant meets the criteria listed in U.S.S.G. §§2D1.1(b) (7) and 5C1.2, the defendant should receive a two point "safety valve" reduction, thereby reducing the offense level to 22.

F. Acceptance of Responsibility. Based upon the defendant's early decision to plead guilty, the parties agree that if the defendant (1) participates fully and truthfully in the preparation of the presentence report, including providing complete, accurate and truthful financial information; (2) complies with all conditions of pretrial release; (3) testifies truthfully during the change of plea hearing; (4) complies with this plea agreement; and (5) commits no further acts inconsistent with his acceptance of responsibility and plea of guilty, the United States will recommend to the Court that the defendant receive a three level reduction for the defendant's recognition and affirmative acceptance of responsibility. If the Court determines to award the

defendant the acceptance of responsibility reduction, the total adjusted offense level is 19. The parties further agree that, except as set forth above, none of the adjustments set forth in U.S.S.G. §§3A1.1 through 3C1.2 is applicable in this case.

G. Criminal History Category. Based on the information known at this time, the parties believe that the defendant has a criminal history category of I. The defendant understands that if the presentence investigation by the U.S. Probation Office reveals any prior adult or juvenile sentence which should be included within his criminal history under the sentencing guidelines, then the guideline range will be adjusted to reflect the range appropriate for his criminal history.

H. Guideline Range. If the total adjusted offense level is 19, and the criminal history category is I, the sentencing guideline range is 30 to 37 months of imprisonment.

I. Substantial Assistance. As an essential part of this plea agreement, the defendant has agreed to cooperate with law enforcement authorities in the investigation and prosecution of other persons. This cooperation includes, but is not limited to, being interviewed by law enforcement agents and testifying truthfully at any trial or other proceeding.

The United States agrees that it will not use, directly or indirectly, any information provided by the defendant pursuant to

this plea agreement, or any leads derived from that information, in any prosecution of the defendant, or under U.S.S.G. §1B1.8, in any manner to enhance or otherwise increase the defendant's sentence in this case. The defendant understands and agrees that, if subsequent to the date of this plea agreement and prior to sentencing, the United States learns that he has made any material misrepresentation, through misstatements or omission, in any proffer session or at any trial or other proceeding, the United States may use any information provided by the defendant, or any leads derived therefrom, against him in any manner, and may elect, at its option, to move the Court to permit the United States to withdraw from this plea agreement and to prosecute him to the fullest extent of the law.

The defendant further understands and agrees that, if subsequent to sentencing, the United States learns that he has made any material misrepresentation, through misstatement or omission, in any proffer session or at any trial or other proceeding, the United States may use any information provided by the defendant, or any leads derived therefrom, against him in any manner and may prosecute him to the fullest extent of the law, notwithstanding any other provisions of this plea agreement.

If the defendant cooperates fully and truthfully as required by this plea agreement and thereby renders substantial assistance to the United States, the United States will, at the time of

sentencing, move for a downward departure under 18 U.S.C. § 3553(e) and U.S.S.G. §5K1.1. The United States also agrees to make the full extent of the defendant's cooperation known to the Court. The defendant understands that the United States, not the Court, will decide whether the defendant has rendered substantial assistance. The United States will exercise its discretion in good faith. The defendant also understands that there is no guarantee the Court will grant any such motion for a downward departure, and the defendant understands that the amount of any downward departure is within the Court's discretion. In the event the United States does not make or the Court does not grant such a motion, the defendant may not withdraw his plea based upon that ground. Finally, the defendant understands that the United States is not required to accept any tendered cooperation on the defendant's part. If the United States, in its sole discretion, chooses not to accept tendered cooperation, the defendant will not receive a sentence reduction for such tendered cooperation and will not be allowed to withdraw from the plea agreement based upon that ground.

J. Fine Range. If the adjusted offense level is 19, the fine range is \$6,000 to \$60,000.

K. Supervised Release. There is no agreement as to the length of supervised release term to be ordered following any term of imprisonment.

L. Cost of Supervision and Imprisonment. There is no

agreement as to the imposition on the defendant of the costs of his imprisonment and supervision.

8. Restitution, Forfeiture, and Financial Sanctions. The defendant understands and agrees the Court may order him to make restitution to any victim of his offenses and may otherwise order him to pay a criminal fine, and/or forfeiture. The parties have not yet reached an agreement as to the total amount of restitution, fine, and/or forfeiture that they believe should be ordered in this case but will reach an agreement before sentencing.

The defendant agrees, however, to forfeit to the United States pursuant to 21 U.S.C. § 853(a) all his right, title, and interest, whether legal or equitable, secured or unsecured, recorded or unrecorded, in all property constituting, or derived from, the proceeds of his offenses, and all property used, in any manner or part, to commit, or to facilitate the commission of such violations. The parties agree that the minimum amount of such proceeds, that is, the minimum amount that is subject to forfeiture and that the defendant is agreeing to forfeit, is at least approximately \$200,000.

Of the total amount of the at least approximately \$200,000 that the defendant has agreed to forfeit, the defendant agrees to pay the sum of approximately \$56,000.00 by certified check payable to the U.S. Marshal within 14 days of the entry of defendant's guilty plea in partial satisfaction of the defendant's forfeiture

obligations. The defendant agrees that the sum of approximately \$56,000.00 is subject to forfeiture under 21 U.S.C. § 853(a) because this sum represents proceeds he received as a result of the violations to which he has agreed to plead guilty. The defendant agrees that he will still be obligated to pay the remainder of the at least approximately \$200,000 that he has agreed is subject to forfeiture by way of a personal money judgment forfeiture or otherwise.

The defendant agrees that the property to be forfeited under the terms of this plea agreement may, at the option of the United States, be accomplished by criminal or civil judicial forfeiture. To the extent that the United States elects civil judicial forfeiture, the defendant agrees to execute a Consent to Default Judgment and Forfeiture, whereby the defendant consents to the forfeiture of the above-described property to the United States free and clear of any claim by him. The defendant agrees that whether the forfeitures are completed in this criminal case or in separate civil forfeiture proceedings, he will not, directly or indirectly, through family members or others acting for or in concert with him, contest the forfeiture of the above-described properties. If the defendant or anyone acting for or in concert with him has filed a claim in such forfeiture proceedings, he agrees the claim shall be withdrawn.

The defendant agrees to provide complete, accurate, and

truthful financial information relating to his assets and his ability to pay a fine, and/or forfeiture. Such information will include a complete disclosure of all assets over which the defendant exercises or exercised control, directly or indirectly, and any assets which have been held or controlled by a nominee(s), within the past five (5) years, or in which the defendant has or had during that time, any financial interest. The defendant agrees that, as part of the foregoing financial disclosure, he will complete and execute Form OBD-500 and will provide testimony to the United States in a deposition(s) under oath. The defendant further agrees that, upon request by the United States, he will voluntarily submit to a polygraph examiner of the United States' choice.

The defendant agrees to cooperate with the United States by taking whatever steps are necessary to convey clear title to any assets or property subject to forfeiture to the United States, or to a third party requested by the United States, including, but not limited to providing the abstract of title or owner's duplicate certificate of title, certificate of title, and/or executing deeds, titles and any other conveyance documents. The defendant further agrees to obtain from any other parties, by lawful means, any records of assets over which the defendant exercises or exercised control, directly or indirectly, and any assets which have been held or controlled by a nominee(s). The defendant further agrees to assist in bringing any forfeitable assets located outside the

United States within the jurisdiction of the United States, and to take whatever steps are necessary to ensure that any assets or property subject to forfeiture are not sold, disbursed, wasted, hidden or otherwise made unavailable for forfeiture. The defendant agrees to cooperate with the United States in any sale or other disposition of any assets or property subject to forfeiture.

The defendant agrees to waive any claims, defenses, or challenges arising under the Constitution resulting from the forfeitures imposed as a result of the Second Superseding Indictment and/or any pending or completed administrative or civil judicial forfeiture actions based upon the course of conduct that provides the factual basis for the forfeiture. The defendant further hereby agrees that he will not contest or challenge in any manner (including direct appeal, habeas corpus, or any other means) such forfeiture on any grounds.

Nothing in this plea agreement shall be construed as a waiver of the United States' right to proceed against any of the defendant's property not identified in this plea agreement or other related civil forfeiture actions if said property, real or personal, tangible or intangible, is subject to forfeiture under federal law. The United States reserves its right to seek forfeiture of substitute assets and/or a personal money judgment forfeiture from the defendant.

The defendant agrees that the forfeiture of the defendant's

property shall not be treated as satisfaction of any tax obligation owed the United States or any monetary obligation owed to the United States, including a fine, restitution, cost of imprisonment, or any other penalty this Court may impose upon the defendant in addition to forfeiture.

The defendant understands that he may not re-acquire any right, title or interest in any property forfeited to the United States, directly or indirectly, through family members or others acting in concert with him.

9. Medical License and DEA Registration. The defendant agrees, within ten days of the entry of his plea of guilty, to surrender to the Drug Enforcement Administration ("DEA") his DEA registration to dispense controlled substances.

The defendant also agrees, within ten days of the entry of his plea of guilty, to: contact the New Jersey State Board of Medical Examiners for the purpose of entering into an administrative consent order; return his original Controlled Dangerous Substances ("CDS") registration in the State of New Jersey to the New Jersey State Board of Medical Examiners; return his original New Jersey license and current biennial registration to the New Jersey State Board of Medical Examiners; permanently cease and desist from prescribing or dispensing any medications, including Controlled Dangerous Substances, to any individual, including himself, his family members, or his patients; immediately advise the New Jersey

Office of Drug Control of this plea agreement and of the defendant's conviction; and comply with the standard form of "Directives Applicable to Any Medical Board Licensee who is Suspended, Revoked, or whose Surrender of Licensure has been Accepted."

The defendant further agrees, within ten days of the entry of his plea of guilty, to contact any other board of medical examiners or the equivalent with respect to any other medical license that he holds, including but not limited to the State of Pennsylvania, and to make comparable arrangements as those set forth above, including reporting his conviction and surrendering his medical license(s) and registration(s).

The defendant agrees to cooperate in any and all proceedings that may become necessary to effectuate these provisions.

10. Waiver of Trial and Pretrial Motions. The defendant understands that by pleading guilty he will waive all rights to a trial or appeal on the question of his guilt. The defendant further understands that by pleading guilty he will waive all rights to bring any pretrial motions, such as those seeking the suppression of evidence.

11. Waiver of Appeal and Collateral Review. The defendant is expressly aware that he has the right to appeal the sentence imposed in this case. Acknowledging these rights, and in exchange for the concessions made by the United States in this plea

agreement, the defendant hereby waives all rights, such as those conferred by Title 18, United States Code, Sections 3742 and 2255, to appeal either directly or collaterally (such as by a habeas petition), his sentence on any ground, unless the sentence exceeds 37 months of imprisonment, in which case the defendant retains the right to appeal his sentence but not his conviction. The defendant has discussed these rights and the waiver of them with his attorney, the defendant understands the rights being waived in this paragraph, and the defendant waives these rights knowingly, intelligently, and voluntarily.

12. Reinstatement of Prosecution. If the defendant's guilty plea is rejected, withdrawn, vacated, or reversed at any time, the United States will be free to prosecute the defendant for all charges of which it has knowledge, and any charges that have been dismissed because of this plea agreement will be reinstated. If that occurs, the defendant waives any objections, motions, or defenses based up on the Statue of Limitations, the Speedy Trial Act, or constitutional restrictions on the bringing of later charges or proceedings. The defendant also agrees and understands that any statements made by the defendant during cooperation or at the time of the defendant's sentencing may not be used against the defendant in any subsequent hearing, trial, or proceeding, except for the purpose of cross-examination should the defendant testify, or to refute, rebut or counter at any stage of the proceeding any

evidence, argument, statement or representation offered by or on behalf of the defendant. All evidence derived from the defendant's cooperation may be used by the United States for any purpose and at any stage or any hearing, trial, or proceeding.

13. Entire Agreement. The foregoing accurately sets forth the full extent of the plea agreement and the sentencing stipulations in the above-captioned case. There are no other agreements or understandings between the parties not contained herein.

Dated:

8/25/06

RACHEL K. PAULOSE
United States Attorney for
the District of Minnesota

By: *Nicole A. Engisch*
NICOLE A. ENGISCH
Assistant U.S. Attorney
Attorney ID No. 215284
ELIZABETH C. PETERSON
Assistant U.S. Attorney
Attorney ID No. 321564

8/22/06

CHRISTOPHER J. CHRISTIE
United States Attorney for
the District of New Jersey

By: *Eric H. Jaso*
ERIC H. JASO
Assistant U.S. Attorney

Dated: 8/31/06

Philip Mach
PHILIP MACH
Defendant

Dated: 8/31/06

Bruce G. Cassidy
BRUCE G. CASSIDY
Attorney for Defendant

EXHIBIT B

DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE HAS BEEN ACCEPTED

APPROVED BY THE BOARD ON MAY 10, 2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of

former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

NAME: Phillip Mach, M.D.
NJ License #: MA051888

ADDENDUM

Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:

Social Security Number¹: _____

List the Name and Address of any and all Health Care Facilities with which you are affiliated:

List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:

Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).

Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.

**NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 C.F.R. Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 C.F.R. Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.